

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 03-20031

Honorable David M. Lawson

v.

ROGER CLAY SWAIN,

Defendant.

ORDER DENYING DEFENDANT’S MOTION FOR RECONSIDERATION

On October 18, 2010, the defendant filed a motion for reconsideration of the Court’s order denying his motion to reduce his sentence and motion for an order.

Motions for reconsideration may be granted pursuant to E.D. Mich. LR 7.1(g)(1) when the moving party to shows (1) a “palpable defect,” (2) that misled the court and the parties, and (3) that correcting the defect will result in a different disposition of the case. E.D. Mich. LR 7.1(g)(3). A “palpable defect” is a defect which is obvious, clear, unmistakable, manifest, or plain. *Mich. Dep’t of Treasury v. Michalec*, 181 F. Supp. 2d 731, 734 (E.D. Mich. 2002) (citations omitted). However, motions for reconsideration should not be granted when they “merely present the same issues ruled upon by the court, either expressly or by reasonable implication.” E.D. Mich. LR 7.1(g)(3).

In his motion for reconsideration, the defendant argues that the Court erred when it sentenced him as a career offender and refused to apply amendment 484 to reduce his sentence. The defendant’s motion for reconsideration presents only issues that the Court has already examined and ruled upon and appears to be an attempt to relitigate these issues. The defendant has failed to present a palpable defect that misled the Court. Therefore, the Court will deny the defendant’s motion for reconsideration.

Accordingly, it is **ORDERED** that the defendant's motion for reconsideration [dkt. #42] is **DENIED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: October 21, 2010

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 21, 2010.

s/Deborah R. Tofil
DEBORAH R. TOFIL